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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,697	10/29/2003	David Henderson	7123.00005	5060

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EXAMINER	
LIEU, JULIE BICHNGOC	
ART UNIT	**PAPER NUMBER**
2636	

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/695,697	HENDERSON ET AL.	
	Examiner	Art Unit	
	Julie Lieu	2636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 3/21/05.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-12 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-12 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is in response to Applicant's amendment filed March 21, 2005. No claims have been amended, added, or canceled.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-12 are again provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 and 12 of copending Application No. 10/272,069 in view of Anthony et al (US 6,559,769). Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed

feature of claims 1-12 of the present application are the same as those claimed in application '089 except for the claimed "automatic sorting means for automatically sorting the visual records." Nonetheless, it would have been obvious to one skilled in the art to provide automatic sorting means to sort information relating to the alert as desired because it would allow the user to easily correlate the visual recorded event with a current alert to remedy the problem as implicitly suggested in Anthony (col. 16 lines 12-19) wherein it is stated that an expected pattern of vehicle or related accumulated, historical information are gathered.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 103

5. Claims 1-12 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Anthony (US Patent No. 6,559,760).

Claim 1:

Anthony discloses a monitoring system for remotely monitoring an item or activity, the monitoring system comprising:

a. recording means 11 for recording a visual record of an item or activity;

b. communicating means (col. 9, line 65 to col. 10, line 20) in communication with said recording means, the communicating means is used for communicating the visual record, and

c. security means operatively connected to the communicating means, wherein said security means is used for controlling access to the monitoring system. Col. 19, line 65 to col. 11, line 14.

Anthony fails to explicitly expressively state that a sorting means is used to sort visual records. Nonetheless, the reference implicitly indicates the use of a sorting means. As stated in col. 16, lines 12-19, a pattern of behavior or related, accumulated, historical information is stored and compared with real time information to detect a deviation therefrom from the expected pattern. Furthermore, the sorting means in Anthony is automatic as explicitly discussed in column 17 last paragraph.

Claim 2:

The communication means in Anthony specifically includes fax lines, phone lines, modem, Internet, dial-up Internet, WAN, Intranet, LAN, wireless connections, satellite communications, radio communications, and audio communication. See col. 9, lines 65-col 10, line 20, and col. 10, lines 40-44. Though particular commutation system such as TI, cable modem, DSL, direct cable connection are not clearly stated, it would have been obvious to one skilled in the art to use these communication devices in the Anthony system because they are conventional.

Claims 3:

The security system in Anthony is selected from the group consisting essentially of an access code, a PIN number, and password.

Claim 4:

The recording means in Anthony is selected from the group ' consisting essentially of a digital camera and standard cameras.

Claim 5:

The rejection of claim 5 recites the rejection of claim 1, except it is a method claim.

Claim 6:

The cameras used in Anthony are digital cameras. It is not clear whether the recording step in Anthony takes a photograph image and scans the photograph into a computer thereby creating a digital image. However, it would have been obvious to one skilled in the art to do so in the Anthony system because this technology is well known in the art. The reference suggests this feature since it utilizes a digital camera.

Claim 7:

Anthony's system utilizes a digital camera to digitally record the image of the item.

Claim 8:

The recording step in Anthony digitally photographs the item.

Claim 9:

The recording step in Anthony further includes digitally videotape the item.

Claim 10:

The rejection of claim 10 recites the rejection of claim 3, except it is a method claim.

Claim 11:

The recording step in Anthony includes recording the image of status of an item then recording the image of the identifier and then recording the image of the activity or item. See col. 18, last paragraph to col. 19, second paragraph.

Claim 12:

Anthony fails to disclose surveying the user of the system. Nonetheless, one of ordinary skilled in the art would have readily recognized the desirability to survey the user of the system as desired because it would be beneficial to the implementer of the system since it would allow the implementer know what the customers like in order to improve their products.

Remarks

6. Applicant's arguments filed 3/21/05 have been fully considered but they are not persuasive.

The Applicant's attention is directed to the new rejection as a response to the argument that Anthony does not disclose an automatic sorting means.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 571-272-2978. The examiner can normally be reached on MaxiFlex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Julie Lieu
Primary Examiner
Art Unit 2636

Jul 5, 05